

ASSEMBLY BILL

No. 228

Introduced by Assembly Member Leslie

January 29, 2003

An act to amend Sections 52122, 52123, 52124, 52124.5, and 52126 of the Education Code, relating to class size.

LEGISLATIVE COUNSEL'S DIGEST

AB 228, as introduced, Leslie. Class size reduction.

Existing law establishes the Class Size Reduction Program in which participating school districts are provided funding for reducing class size to a ratio of 20 pupils to 1 teacher in kindergarten and any of grades 1 to 3, inclusive. Existing law allows certain small school districts to determine the average class size on a schoolsite basis rather than on an individual class basis if the ratio of pupils to teacher in any class included in the average does not exceed the 20 to 1 ratio by more than 2 pupils.

This bill would allow all school districts to determine average class size on a participating schoolsite basis in the same manner as certain small school districts and would not prohibit the class size from exceeding 22 pupils on a particular day.

This bill would make technical and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 52122 of the Education Code is
2 amended to read:

52122. (a) Except as otherwise provided by Section 52123, ~~any~~ a school district that maintains ~~any~~ kindergarten or any of grades 1 to 3, inclusive, may apply to the Superintendent of Public Instruction for an apportionment to implement a class size reduction program in that school district in kindergarten and any of the grades ~~designated in this chapter~~ 1 to 3, inclusive.

(b) An application submitted pursuant to this chapter shall identify both of the following:

(1) Each class that will participate in the Class Size Reduction Program.

(2) For each class that will participate in the Class Size Reduction Program, whether that class will operate under Option One or Option Two:

(A) (i) Option One: A school district shall provide a reduced class size for all pupils in each classroom for the full regular schoolday in each grade level for which funding is claimed. For the purposes of this chapter, “full regular schoolday” means a substantial majority of the instructional minutes per day, but shall permit limited periods of time during which pupils are brought together for a particular phase of education in groups that are larger than 20 pupils per certificated teacher. It is the intent of the Legislature that those limited periods of time be kept to a minimum and that instruction in reading and mathematics not be delivered during those limited periods of time. ~~For the purposes of this subparagraph, “class” is defined in the same manner as provided in the regulations adopted by the Superintendent of Public Instruction prior to July 1, 1996, pursuant to Sections 41376 and 41378 (subdivision (a) of Section 15103 of Title 5 of the California Code of Regulations).~~

(ii) The purpose of the Class Size Reduction Program is to ensure that children in public school in kindergarten and grades 1 to 3, inclusive, receive instruction in classrooms where there are not more than 20 pupils. ~~Except as provided in subdivision (h), in~~ In order to qualify for funding pursuant to this chapter, each class in the Class Size Reduction Program shall be maintained with an annual *participating schoolsite* average class size of not more than 20 pupils for the instructional time that qualifies the class for funding pursuant to this chapter. ~~Nothing in this chapter shall be construed to prohibit the class size from exceeding 20 pupils on~~

~~any particular day, provided that the average class size for the participating schoolsite during the school year does not exceed 20.~~

(B) (i) Option Two: A school district shall provide a reduced class size for all pupils in each classroom for at least one-half of the instructional minutes offered per day in each grade level for which funding is claimed. ~~School districts~~ *A school district* selecting this option shall primarily devote those instructional minutes to the subject areas of reading and mathematics. ~~For the purposes of this subparagraph, “class” is defined in the same manner as provided in the regulations adopted by the Superintendent of Public Instruction prior to July 1, 1996, pursuant to Sections 41376 and 41378 (subdivision (a) of Section 15103 of Title 5 of the California Code of Regulations).~~

(ii) The purpose of the Class Size Reduction Program is to ensure that children in public school in kindergarten and grades 1 to 3, inclusive, receive instruction in classrooms where there are not more than 20 pupils. ~~Except as provided in subdivision (h), in~~ *In* order to qualify for funding pursuant to this chapter, each class in the Class Size Reduction Program shall be maintained with an annual *participating schoolsite* average class size of not more than 20 pupils for the instructional time that qualifies the class for funding pursuant to this chapter. ~~Nothing in this chapter shall be construed to prohibit the class size from exceeding 20 pupils on any particular day, provided that the average class size for the school year does not exceed 20.~~

(c) ~~A school district that intends to implement a class size reduction program for the 1996–97 school year shall submit an application for funds pursuant to this chapter to the Superintendent of Public Instruction not later than November 1, 1996. To receive the total amount of funding in the 1996–97 school year for which the school district is eligible pursuant to Section 52126, a school district shall implement the Class Size Reduction Program by February 16, 1997, within the meaning of paragraph (2) of subdivision (b).~~

(d) ~~A school district that intends to implement or continue to implement a class size reduction program for the 1997–98 school year and any subsequent school year shall submit an application for funding pursuant to this chapter to the Superintendent of Public Instruction not later than 90 days after the annual Budget Act is~~

1 chaptered, unless otherwise specified in regulations adopted by the
2 State Board of Education.

3 ~~(e) For the 1997-98 school year, a school district that is either~~
4 ~~implementing or expanding a class size reduction program~~
5 ~~pursuant to this chapter may receive funding pursuant to this~~
6 ~~chapter even if the new classes for which funding is sought are not~~
7 ~~implemented at the beginning of the 1997-98 school year,~~
8 ~~provided that, for each new class in the Class Size Reduction~~
9 ~~Program, all of the following criteria are met:~~

10 ~~(1) The teacher for each new class is hired and placed on the~~
11 ~~school district's payroll by November 1, 1997.~~

12 ~~(2) Each teacher for a new class has begun to receive the~~
13 ~~training required by this chapter on or before February 16, 1998.~~

14 ~~(3) All other requirements of this chapter are satisfied by~~
15 ~~February 16, 1998, and continue to be satisfied for the remainder~~
16 ~~of the 1997-98 school year.~~

17 ~~(f) For the 1997-98 school year, the number of new classes in~~
18 ~~the Class Size Reduction Program is the number of classes~~
19 ~~satisfying the requirements of this chapter minus the number of~~
20 ~~classes funded in the Class Size Reduction Program pursuant to~~
21 ~~this chapter in the 1996-97 school year.~~

22 ~~(g)~~

23 ~~(d) Any school district that chooses to reduce~~ *reduces* ~~class size~~
24 ~~through the use of an early-late instructional program is ineligible~~
25 ~~to also use Section 46205, relating to the computation of~~
26 ~~instructional time for purposes of the Incentive for Longer~~
27 ~~Instructional Day and Year, in any grade level for which class size~~
28 ~~reduction funding is received pursuant to this chapter; provided,~~
29 ~~however, that any. Any school district that operated under Section~~
30 ~~46205 prior to July 1, 1996, may receive class size reduction~~
31 ~~funding pursuant to Option One in any grade level for which class~~
32 ~~size reduction funding would otherwise be received pursuant to~~
33 ~~Option One.~~

34 ~~(h) (1) Notwithstanding any other provision of law, a school~~
35 ~~district that maintains only one school serving pupils in~~
36 ~~kindergarten and grades 1 to 3, inclusive, is eligible to receive~~
37 ~~funding under this section on behalf of the school if there are no~~
38 ~~more than two classes per participating grade level and the average~~
39 ~~class size is no more than 20 pupils in each of the classes~~
40 ~~participating in class size reduction at that schoolsite. For purposes~~

1 of this subdivision, average class size may be determined by
2 calculating the total number of pupils enrolled in all classes at all
3 grade levels in a school that will participate in the Class Size
4 Reduction Program divided by the total number of classes in the
5 school. The ratio of pupils to teacher in any class included in the
6 average shall not exceed the 20 to 1 standard by more than two
7 pupils.

8 (2) As a condition of applying for funding under this
9 subdivision, a governing board shall make a public declaration,
10 either by adopting a resolution or by issuing a statement in a
11 publicly noticed open meeting, that it has exhausted all possible
12 alternatives to averaging and is unable to achieve the 20 to 1
13 pupil-teacher ratio in a way that is educationally acceptable.

14 (e) For purposes of subparagraphs (A) and (B) of paragraph
15 (2) of subdivision (b), "class" is defined as follows:

16 (1) "Class" is a group of pupils scheduled to report regularly
17 at a particular time to a particular teacher.

18 (A) If the type of teaching in kindergarten and grades 1 to 3,
19 inclusive, occurs other than in self-contained classes, the "class"
20 is the basic homeroom for the pupil where all of the following
21 apply:

22 (i) Attendance is recorded and investigation of absences is
23 instigated.

24 (ii) The pupil has an assigned desk, locker, or drawer.

25 (iii) The teacher handles the administrative routines such as
26 keeping cumulative records, collecting basic data about the child,
27 distributing items to be given to the parent or guardian of the pupil,
28 collecting lunch money, and distributing and collecting report
29 cards.

30 (iv) The teacher is the usual contact for the parent or guardian
31 of the pupil.

32 (v) Some planned instruction is given.

33 (B) For kindergarten and grades 1 to 3, inclusive, the meeting
34 of a specific group of pupils for a particular period or periods for
35 instruction by two or more teachers or for an extracurricular
36 school activity, is not considered a "class."

37 (f) This chapter does not prohibit the class size from exceeding
38 22 pupils on any particular day, if the average class size for the
39 school year does not exceed 20.

(g) *For purposes of this chapter, average class size is determined by calculating the total number of pupils at a schoolsite who are enrolled in classes at all grade levels that participate in the Class Size Reduction Program divided by the total number of classes at the schoolsite at all grade levels that participate in the class Size Reduction Program.*

SEC. 2. Section 52123 of the Education Code is amended to read:

52123. ~~A The application of a school district's application~~ district for funding to implement a program pursuant to this chapter shall include ~~the district's~~ certification of each of the following items as a condition to receiving ~~any~~ *an* apportionment under Section 52126:

(a) Certification of the number of classes in each eligible grade level selected for a class size reduction apportionment pursuant to this chapter.

(b) Certification of pupil enrollment, as of October of the previous calendar year, in each class selected for class size reduction pursuant to subdivision (a). Classes comprised of special education pupils enrolled in special day classes on a full-time basis ~~shall~~ *may* not be included in this program. ~~School districts~~ *A school district* may not claim funding pursuant to this chapter for ~~any~~ *a* pupil who is enrolled in independent study pursuant to Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 for the full regular schoolday nor may ~~a school districts~~ *a school district* claim funding pursuant to this chapter for ~~any~~ *a* pupil for any portion of the full regular day that the pupil is enrolled in independent study pursuant to that article. ~~Charter schools~~ *A charter school* may not claim funding pursuant to this chapter for ~~any~~ *a* pupil who is enrolled in a program of home study for the full regular schoolday nor may ~~a charter schools~~ *a charter school* claim funding for ~~any~~ *a* pupil for any portion of the full regular schoolday that the pupil is enrolled in a program of home study.

(c) (1) ~~Except as provided in paragraph (2), certification~~ *Certification* that a certificated teacher has been hired by the school district and is providing direct instructional services to each class selected for class size reduction pursuant to this chapter and that there are not more than *an average at the participating schoolsite of 20* pupils per each class.

1 ~~(2) In a school district that applies for funding pursuant to~~
2 ~~subdivision (h) of Section 52122, certification of all of the~~
3 ~~following:~~

4 ~~(A) A certificated teacher has been hired by the school district~~
5 ~~and is providing direct instructional services to each class selected~~
6 ~~for class size reduction pursuant to this chapter.~~

7 ~~(B) The ratio of pupils to teacher does not exceed the 20 to 1~~
8 ~~standard ratio by more than two pupils.~~

9 ~~(3) For the purposes of this subdivision, “class” shall be is~~
10 ~~defined in the same manner as provided in the regulations adopted~~
11 ~~by the Superintendent of Public Instruction prior to July 1, 1996,~~
12 ~~pursuant to Sections 41376 and 41378 (subdivision (a) of Section~~
13 ~~15103 of Title 5 of the California Code of Regulations); pursuant~~
14 ~~to subdivision (e) of Section 52122.~~

15 ~~(d) Certification that the school district has a staff development~~
16 ~~program pursuant to Section 52127 and that the program has been~~
17 ~~approved by the governing board of the school district.~~

18 ~~(e) Certification that the school district will collect and~~
19 ~~maintain any data required by the Superintendent of Public~~
20 ~~Instruction that will aid in the evaluation of the Class Size~~
21 ~~Reduction Program. The data shall include, but not be limited to,~~
22 ~~individual test scores or other records of pupil achievement. Any~~
23 ~~data Data collected shall be protected in a manner that will not~~
24 ~~permit the personal identification of any pupil or parent.~~

25 ~~(f) Commencing with the 1998–99 school year and each school~~
26 ~~year thereafter, certification~~ Certification that each class reduced
27 pursuant to this chapter is housed in either a separate,
28 self-contained classroom or that the space of each class for each
29 grade level at that schoolsite provides a square footage per pupil
30 enrolled in each class that is not less than the average square
31 footage per pupil enrolled in those grade levels at that schoolsite
32 in the 1995–96 school year.

33 SEC. 3. Section 52124 of the Education Code is amended to
34 read:

35 52124. (a) ~~Any~~ A school district that implements a ~~Class Size~~
36 ~~Reduction Program~~ *class size reduction program* pursuant to this
37 chapter is subject to this section.

38 (b) A school district may establish a program to reduce class
39 size in kindergarten and grades 1 to 3, inclusive, and that program

1 shall be implemented at each schoolsite according to the following
2 priorities:

3 (1) If only one grade level is reduced at a schoolsite, the grade
4 level shall be grade 1.

5 (2) If only two grade levels are reduced at a schoolsite, the
6 grade levels shall be grades 1 and 2.

7 (3) If three grade levels are reduced at a schoolsite, ~~then~~ those
8 grade levels shall be kindergarten and grades 1 and 2 or grades 1
9 to 3, inclusive. Priority shall be given to the reduction of class sizes
10 in grades 1 and 2 before the class sizes of kindergarten or grade 3
11 are reduced.

12 (4) If four grade levels are reduced at a schoolsite, ~~then~~ those
13 grade levels shall be kindergarten and grades 1 to 3, inclusive. First
14 priority shall be given to the reduction of class sizes in grades 1 and
15 2, second priority shall be given to the reduction of class size in
16 kindergarten and grade 3. This paragraph shall be operative only
17 in those fiscal years for which funds are appropriated expressly for
18 the purposes of this paragraph.

19 (c) It is the intent of the Legislature to continue to permit the
20 use of combination classes of more than one grade level to the
21 extent that school districts are otherwise permitted to use that
22 instructional strategy. However, any school district that uses a
23 combination class in any class for which funding is received
24 pursuant to this chapter may not claim funding pursuant to this
25 chapter if the total number of pupils in the combination class,
26 regardless of grade level, exceeds *an average of 20* pupils per
27 certificated teacher assigned to provide direct instructional
28 services.

29 (d) The governing board of a school district shall certify to the
30 Superintendent of Public Instruction that it has met the
31 requirements of this section in implementing its ~~Class-Size~~
32 ~~Reduction-Program~~ *class size reduction program*. If a school
33 district receives funding pursuant to this chapter but has not
34 implemented its ~~Class-Size-Reduction-Program~~ *class size*
35 *reduction program* for all grades and classes for which it received
36 funding pursuant to this chapter, the Superintendent of Public
37 Instruction shall notify the Controller and the school district in
38 writing and the Controller shall deduct an amount equal to the
39 amount received by the school district under this chapter for each
40 class *at a participating schoolsite* that the school district failed to



1 reduce to ~~a~~ *an average* class size of 20 or less pupils from the
2 school district's next principal apportionment or apportionments
3 of state funds to the district, other than basic aid apportionments
4 required by Section 6 of Article IX of the California Constitution.

5 SEC. 4. Section 52124.5 of the Education Code is amended
6 to read:

7 52124.5. (a) ~~(1)~~—The Controller shall include instructions,
8 appropriate to the enforcement of subdivision (d) of Section
9 52124, in the audit guide *or supplement to the audit guide* required
10 by subdivision (a) of Section ~~14502~~ *14502.1*. These instructions
11 shall include, but not necessarily be limited to, procedures for
12 determining if the annual *participating schoolsite* average class
13 enrollment exceeds 20.4 for classes for which funding is provided
14 to a school district pursuant to this chapter. The procedures to
15 determine average class enrollment shall include criteria for
16 employing sampling which will satisfy both of the following:

17 ~~(A)~~

18 (1) The number of classes to be reviewed shall be based on
19 auditor judgment, but the selection of classes shall be done
20 randomly.

21 ~~(B)~~

22 (2) For each class selected, the sample shall include at least 15
23 days randomly selected from all instructional days which occurred
24 between the first day of instruction and April 15, ~~inclusively~~
25 *inclusive*, of the school year.

26 ~~(2)(A)~~

27 (b) (1) If the auditor concludes from the sample, based on his
28 or her professional judgment, that average class size for the
29 sampled classes is more than 20.4 when averaged over a period
30 from the first day of instruction to April 15 of the school year, then
31 the auditor shall conduct a more in-depth review. The in-depth
32 review shall be either of the following:

33 ~~(i)~~

34 (A) A review of all instructional days for all classes for which
35 a district has requested funding pursuant to Section 52126.

36 ~~(ii)~~

37 (B) A randomly selected sample of all classes and instructional
38 days of sufficient size and designed in such a manner that the class
39 size for each class, when averaged over the period from the first
40 day of instruction to April 15, that the auditor can conclude that the

1 average daily class size does not exceed 20 with an error of no more
2 than 0.4 rate at 95 percent degree of confidence.

3 ~~(B)~~

4 (2) The school district shall make the determination as to which
5 of the two in-depth review methods set forth in subparagraph (A)
6 of paragraph (1) shall be used.

7 ~~(b) The results of the audits conducted for the 1996-97 and~~
8 ~~1997-98 school years shall be reported by the Superintendent of~~
9 ~~Public Instruction to the Legislature and the Department of~~
10 ~~Finance no later than February 1 of the fiscal year subsequent to~~
11 ~~the audit.~~

12 SEC. 5. Section 52126 of the Education Code is amended to
13 read:

14 52126. The amount of funding that each school district
15 implementing a class size reduction program pursuant to this
16 chapter is eligible to receive shall be computed as follows:

17 (a) If a school district applies to participate in Option One,
18 pursuant to subparagraph (A) of paragraph (2) of subdivision (b)
19 of Section 52122, the Superintendent of Public Instruction shall
20 apportion to the applicant school district an amount equal to eight
21 hundred dollars (\$800) for each pupil actually enrolled in the
22 classes in which the school district implements the program,
23 except that the maximum number of pupils for which a school
24 district may claim funding for any class ~~shall at a participating~~
25 ~~schoolsite may not exceed an average class size of 20.~~ The number
26 of pupils claimed pursuant to this subdivision shall be pupils
27 actually enrolled in classes participating in the Class Size
28 Reduction Program ~~and shall not be based on the average size of~~
29 ~~the classes for any grade levels for which funding is claimed.~~

30 (b) If a school district applies to participate in Option Two,
31 pursuant to subparagraph (B) of paragraph (2) of subdivision (b)
32 of Section 52122, the Superintendent of Public Instruction shall
33 apportion to the applicant school district an amount equal to four
34 hundred dollars (\$400) per pupil actually enrolled in the classes in
35 which the school district implements the program, except that the
36 number of pupils in any class for which a school district may claim
37 funding for the instructional minutes offered ~~shall at a~~
38 ~~participating schoolsite may not exceed an average class size of~~
39 20. The number of pupils claimed pursuant to this subdivision
40 shall be pupils actually enrolled in classes participating in the Class



Size Reduction Program and shall not be based on the average size of the classes for any grade levels for which funding is claimed.

(e) (1) If a school district applies to participate in Option One, pursuant to subparagraph (A) of paragraph (2) of subdivision (b) of Section 52122, the Superintendent of Public Instruction shall apportion to the applicant school district an amount equal to six hundred fifty dollars (\$650) for each pupil actually enrolled in the classes in which the school district implements the program and at least one of the following conditions exists:

(A) The requirements of subdivision (e) of Section 52122 have been satisfied, except for the requirements of either paragraph (1) or (2), of that subdivision, or both.

(B) The pupil enrolls in the school district after February 16, 1998.

(2) The maximum number of pupils for which a school district may claim funding for any class does not exceed 20. The number of pupils claimed pursuant to this subdivision shall be pupils actually enrolled in classes participating in the Class Size Reduction Program, and shall not be based on the average size of the classes for any grade levels for which funding is claimed.

(d) (1) If a school district applies to participate in Option 2, pursuant to subparagraph (B) of paragraph (2) of subdivision (b) of Section 52122, the Superintendent of Public Instruction shall apportion to the applicant district an amount equal to three hundred twenty-five dollars (\$325) for each pupil actually enrolled in the classes in which the school district implements the program and at least one of the following conditions exists:

(A) The requirements of subdivision (e) of Section 52122 have been satisfied, except for the requirements of either paragraph (1) or (2) of that subdivision, or both.

(B) The pupil enrolls in the school district after February 16, 1998.

(2) The maximum number of pupils for which a school district may claim funding for any class shall not exceed 20. The number of pupils claimed pursuant to this subdivision shall be pupils actually enrolled in classes participating in the Class Size Reduction Program, and shall not be based on the average size of the classes for any grade levels for which funding is claimed.

(e)

(c) The per pupil amount set forth in subdivisions (a) and (b) shall be increased annually for inflation by the percentage change determined pursuant to subdivision (b) of Section 42238.1.

~~(f)~~

(d) Except for the advance apportionment, the Superintendent of Public Instruction shall apportion funds to a school district only after certification that its ~~Class Size Reduction Program~~ *class size reduction program* has been implemented for that fiscal year.

~~(g)~~

(e) The Superintendent of Public Instruction shall apportion funds for this program in the following manner:

(1) An advance apportionment shall be made following passage of the annual Budget Act. This apportionment shall be provided to all school districts that participated in the program in the prior fiscal year; and shall be limited to 25 percent of the amount computed by multiplying the appropriate per pupil stipends times the actual enrollment in each participating class in the prior fiscal year, as reported by the district pursuant to subdivision (d) of Section 52124.

(2) Each year an apportionment to all applicants shall be made following receipt of applications submitted pursuant to Section 52123, adjusted as necessary by the amount received pursuant to paragraph (1). If a school district that participated in this program in the prior fiscal year fails to submit an application, all funds apportioned to that school district pursuant to paragraph (1) shall be deducted from the ~~district's~~ next monthly principal apportionment payment *received by the district*.

(3) A final adjustment to the amounts paid pursuant to paragraph (2) shall be made following receipt of the actual enrollment in each participating class, to be reported by each school district pursuant to subdivision (d) of Section 52124.

~~(h)~~

(f) Irrespective of the amount that a school district receives pursuant to subdivision (a) on the basis of the application it makes under Section 52123, that district ~~shall~~ *may* not retain any funds it receives for any class that does not actually meet all of the requirements of the Class Size Reduction Program.

~~(i)~~

(g) It is the intent of the Legislature that the total statewide amount computed for the purposes of this chapter pursuant to this

1 section, commencing with the 1997–98 fiscal year, be
2 appropriated to the Superintendent of Public Instruction in the
3 annual Budget Act.

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